

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
KALMAN ROSENFIELD, individually and :
on behalf of all others similarly situated, : No.: 1:20-cv-04662-RRM-PK
:
Plaintiff, :
:
v. :
:
AC2T, INC., BONNER ANALYTICAL :
TESTING CO., and JEREMY HIRSCH. :
:
Defendants. :
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**DECLARATION OF EDWARD P. BOYLE IN SUPPORT OF MOTION BY
AC2T, INC. AND JEREMY HIRSCH TO DISMISS COMPLAINT**

Pursuant to 28 U.S.C. § 1746, Edward P. Boyle hereby declares as follows:

1. I am a member of the bar of this Court and of the law firm Venable LLP, which represents Defendants AC2T, Inc. and Jeremy Hirsch in this action. I submit this declaration in support of the Motion by Defendants AC2T, Inc. and Jeremy Hirsch to Dismiss the Class Action Complaint. The facts set forth in this declaration are based on personal knowledge and/or my review of the referenced documents.

2. Attached as Exhibit 1-A is a true and correct copy of the box packaging for the Spartan Mosquito Eradicator product (the “Product”), taken from a November 2017 production. Attached as Exhibit 1-B is a true and correct copy of the box packaging for the Product, taken from a May 2018 production. For the avoidance of doubt, and because I do not conclusively know which version the Plaintiff allegedly purchased, I have included both.

3. Attached as Exhibit 2-A is a true and correct copy of the insert included inside the Product’s packaging, taken from a December 2017 production. Attached as Exhibit 2-B is a

true and correct copy of the insert included inside the Product's packaging, taken from a June 2018 production. For the avoidance of doubt, and because I do not conclusively know which version the Plaintiff allegedly purchased, I have included both.

4. Attached as Exhibit 3 is a true and correct copy of an article by Vindhya S. Aryaprema et al., titled "Efficacy of Commercial Attractive Toxic Sugar Bait Station (ATSB) Against Aedes Albopictus," published in 2020 by the Journal of the Florida Mosquito Control Association.

5. Attached as Exhibit 4 is a true and correct copy of Chapter 16 of "The Biology of Mosquitoes, Volume I: Development, Nutrition and Reproduction" by A.N. Clements, published in 2000 by CABI Publishing.

6. Attached as Exhibit 5 is a true and correct excerpt from "Aedes Aegypti. The Yellow Fever Mosquito: Its Life History, Bionomics and Structure" by Sir Rickard Christophers, published in 1960 by Cambridge University Press.

7. Attached as Exhibit 6 is a true and correct copy of an article by Kristina K. Gonzales and Immo A. Hansen, titled "Artificial Diets for Mosquitoes," published in 2016 by the International Journal of Environmental Research and Public Health.

8. Attached hereto as Exhibit 7 is a true and correct copy of an article by Daniel A. H. Peach and Gerhard Gries, titled "Mosquito Phytophagy—Sources Exploited, Ecological Function and Evolutionary Transition to Haematophagy," published in Entomologia Experimentalis et Applicata in 2019.

9. Attached as Exhibit 8 is a true and correct copy of an article by Robert N. Schaeffer et al., titled "Consequences of a nectar yeast pollinator preference and performance," published in 2016 in Functional Ecology.

10. Attached as Exhibit 9 is a true and correct copy of an article by Ryan C. Smith et al., titled “The Plasmodium bottleneck: malaria parasite losses in the mosquito vector,” published in 2014 in Memórias do Instituto Oswaldo Cruz.

11. Attached as Exhibit 10 is a true and correct copy of an article by Jovana Bozic et al., titled “Mosquitoes can harbor yeasts of clinical significance and contribute to their environmental dissemination,” published in 2017 in Environmental Microbiology Reports.

12. Attached as Exhibit 11 is a true and correct copy of an article by P. Tawidian et al., titled “Mosquito-Fungus Interactions and Antifungal Immunity,” published in 2019 by Insect Biochemistry and Molecular Biology.

13. Attached as Exhibit 12 is a true and correct copy of pages from the website maintained by the Mosquito Illness Alliance, available at <http://mosquitoillnessalliance.org> (last visited January 6, 2021), which is cited in paragraph 15 of the Complaint filed in this action.

Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, information, and belief.

Dated: New York, New York
January 6, 2021



EDWARD P. BOYLE